

Bill Helgeson

From: Holly Kernan [equipo8@pacbell.net]
Sent: Friday, April 18, 2003 11:12 AM
To: Bill Helgeson
Subject: Re: PROGRAM LOG

Eric has the info and is going to send it to you today!!

thanks,

Holly

Bill Helgeson wrote:

Holly:

That'll be great. Yes we have Jan & Feb. O So Wonderful Intern Stephanie went back to the CDs and listened to who was on. I need guests and topics of shows of March 7 to April 11 to be current. Something like "A & B discuss X" and "C discusses her new book" and "D & E get in a knock down drag out fist fight over Y and Z"

Bill

-----Original Message-----

From: Holly Kernan [mailto:equipo8@pacbell.net]
Sent: Wednesday, April 16, 2003 1:51 PM
To: Bill Helgeson
Subject: Re: PROGRAM LOG
Do you have January and February.....

Bill Helgeson wrote:

Holly:

Am putting together our quarterly issues report for first quarter of 2003. Have nothing for March & first two weeks of April for UpFront. Can you supply? Would like guests & topics for each show. Could you supply on a weekly basis in an email so I can just build the file on a weekly basis instead of putting together the whole quarter at once.
Bill

Bill Helgeson

From: Nicole Sawaya [nsawaya@poet.sfusd.edu]
Sent: Tuesday, July 01, 2003 12:23 PM
To: whelges@muse.sfusd.edu
Subject: Public File

I believe we need to make sure the Spring Quarterly Reports are in the public file.
It's time...
Nicole

ATTACHMENT 3

1 BY MR. SHOOK:

2 Q Looking at directive one, directive one reads, 'On
3 August 1, 1997 when the subject license renewal application
4 was filed, did the KALW FM Public Inspection File contain
5 all the Ownership and supplemental Ownership Reports
6 required to be kept in the file by then Section 73.3527.'
7 Did you recall, do you recall having to respond in anyway to
8 that directive?

9 A My recollection is that that had been responded to
10 in the 1998 directives, in our pleadings as far as that was
11 one of the charges of GGPR in their license challenge. My
12 recollection is that that had been answered already, either
13 through paperwork submitted by our attorney.

14 Q So, you do not recall in -- now this would have
15 been at a point in time when you were acting Station Manager
16 but roughly also about the time Ms. Sawaya was going to
17 start as General Manager?

18 A February 2001 she hadn't started yet.

19 Q She hadn't started yet. So, in February 2001
20 you're still acting Station Manager, and the Commission has
21 sent the letter, and in that letter there are five
22 directives. And the first directive, it appears simply
23 calls for a yes/no response and then of course we can always
24 provide an explanation if we want to add additional
25 information, but the directive itself is relatively

1 straightforward, it basically asks for a yes/no response.
2 And my question is, did this directive number one, come to
3 you for a yes/no response?

4 A I can't recall if I was asked for a yes/no
5 response.

6 Q Directive number two reads, 'On August 1, 1997,
7 did KALW FM Public Inspection File contain all of the
8 Issues/Programs List required by then Section 73.3527?' And
9 then a second question in directive two, 'Did any lists that
10 were in the file contain the information required by Section
11 73.3527?' And then there's the footnote three that your
12 counsel had read to you before that explains what's in the
13 rule itself. Did directive number two come to your
14 attention for a yes/no response?

15 A I can't recall.

16 Q Moving to directive four, 'If the answer to any of
17 the above questions', and there were three of them, 'is no,
18 detail when and precisely what steps were instituted to
19 correct any problem and ensure that the Public Inspection
20 File contained all requisite materials.' Do you recall
21 providing any information whatsoever in response to
22 directive number four?

23 A I don't know how to say this, my only -- I had
24 conversations with our attorney.

25 MS. REPP: I think perhaps that's what you need to

1 say. May I just ask, was the specific question presented to
2 you, did you have either the letter or a summary of the
3 letter --

4 THE WITNESS: I don't recall --

5 MS. REPP: -- read to you or emailed to you?

6 THE WITNESS: I don't recall getting that from
7 the attorney.

8 MS. REPP: But, you do recall providing
9 information to assist in the response of SFUSD to the FCC on
10 this specific question?

11 THE WITNESS: I don't recall what information I
12 provided or what I was asked to provide at that time.

13 MS. REPP: You recall an effort to provide
14 information but you don't recall the specifics of the
15 effort?

16 THE WITNESS: I remember -- I don't recall -- I'm
17 having trouble recalling exactly what was requested or what,
18 you know, to do this or check to make sure that, I don't
19 recall the specifics other than to, you know, let's make,
20 you know, it would be a good -- I don't know.

21 MS. REPP: Are you concerns, because I know we've
22 talked about the attorney/client privilege, are you
23 concerned that you're getting into that arena?

24 THE WITNESS: Yes, I mean my conversations at this
25 point in February would have been pretty much with regarding

1 the Public File in any sense, would have been just with our
2 attorney.

3 MS. REPP: Well, on that basis do we have enough
4 information on this line of questioning, given that we are
5 bumping into the attorney/client privilege?

6 MR. SHOOK: I think we have enough with respect to
7 directive four. I was going to move on to directive five.

8 MS. REPP: Go ahead.

9 BY MR. SHOOK:

10 Q Directive five reads, 'As of the date of this
11 letter', and that's February 5, 2001, 'is the KALW FM
12 Public Inspection File now complete?' And then there's a
13 subpart (a), which reads, 'If the answer to any of questions
14 1-3 above is no, and presuming that the Public Inspection
15 File is now complete and current, give the date on which the
16 KALW FM Public Inspection File contained all required
17 materials.' So, really you're looking at a couple of
18 questions or directives here, the first being a relatively
19 straightforward yes/no, is the Public Inspection File
20 complete as of February 5, 2001? Do you recall that
21 directive being given to you?

22 A I recall approximately that time that could have
23 been very likely could have been what prompted me to go into
24 the KALW Public File at that time, after not looking at it.

25 Q Now, so you've now looked, you're now looking at

1 the KALW Public Inspection File and conceivably it's in
2 response to this directive, which is, is the file now
3 complete?

4 A Right.

5 Q What assessment did you make as a result of
6 looking in the Public Inspection File?

7 A I made an inventory where I believed things, there
8 should be things in there. It didn't look to me to be
9 complete because I obviously was putting documents in there,
10 in no sense trying to fool anybody, given the dates, I mean
11 I put them in there at that date, because I had not looked
12 at the Public File before then for anything. That was my
13 first, you know, I was looking there, said ah ha, we need
14 to, you know, there's issues in this period of time, I can't
15 find something for this period of time or this period of
16 time, and so I did my earnest effort to put something in
17 there for that period of time.

18 Q No pun intended, earnest effort?

19 A No, no pun intended. Thank you.

20 Q Okay. So, if I'm understanding what you just told
21 me, if you were to respond directly to directive number
22 five, which is 'as of the date of this letter is the KALW FM
23 Public Inspection File now complete', on the basis of what
24 you've just told me, the yes/no response to that directive
25 should be no?

1 A Yes.

2 MR. SHOOK: Now, at this point -- I guess we're
3 going to have to go off again.

4 (Off the record at 12:06 p.m.)

5 (ON the record at 12:12 p.m.)

6 MR. SHOOK: Okay, we're back on.

7 BY MR. SHOOK:

8 Q Mr. Helgeson, counsel for SFUSD has just read you
9 a portion, not the entirety but a portion of the response to
10 directive one, that was contained in the February 5, 2001
11 letter from the FCC. And the response to the directive
12 reads, 'On August 1, 1997, when the subject license renewal
13 application was filed, did the KALW Public Inspection Files
14 contain all of the Ownership Report and supplemental reports
15 required to be kept by then Section 73.3527?' The response
16 reads, 'Yes.' Is that 'yes' response accurate?

17 A My knowledge of that 'yes' response was based on
18 Jeff Ramirez saying it was, not a personal inspection of the
19 file myself on August 1st.

20 Q Did you, in coming to the conclusion that the
21 'yes' response was accurate, did you talk with Mr. Ramirez
22 on or about April 5, 2001?

23 A No, I didn't.

24 Q Did you ever discuss with Mr. Ramirez the basis
25 for his certification that Ownership Report and supplemental

1 reports required to be kept were in fact in the Public File
2 at the time the renewal application was signed?

3 A No, I didn't.

4 Q Did you have personal knowledge as to whether or
5 not all of those reports, the Ownership Reports and the
6 supplemental reports, were in the station Public File on
7 August 1, 1997?

8 A No, I didn't.

9 Q In the context of this letter, the April 6 or
10 April 5, 2001 letter that is being sent to the FCC, you are
11 the person, are you not, who is providing the 'Yes' answer
12 to this question?

13 A I don't know that on April --

14 Q Remember, we just went over a declaration that you
15 signed on April 5, 2001?

16 A Yes, right.

17 Q And according to that declaration all of the --
18 you had reviewed the letter that is being sent to the FCC
19 and that all of the information in there is correct to the
20 best of your knowledge?

21 A To the best of my knowledge was that I assumed
22 that what Jeff Ramirez had previously stated was correct.

23 Q But, you did not personally determine?

24 A On August 1, 1997, no, I didn't personally --

25 Q You had no personal knowledge as to whether on

1 August 1, 1997 all of the Ownership Reports and supplemental
2 reports were in fact in the file?

3 A Not on August 1, 1997.

4 Q Now, in connection with this April 5, 2001
5 response that was sent to the Commission, there were
6 Ownership Reports that were attached as attachments to this
7 letter, and I guess we have to go off again.

8 (Off the record at 12:16 p.m.)

9 (On the record at 12:19 p.m.)

10 MR. SHOOK: On the record.

11 BY MR. SHOOK:

12 Q Counsel for SFUSD has just gone over with you one
13 of the supplements, or one of the attachments to the April
14 5, 2001 letter, which happened to be a copy of a 1993
15 Ownership Report for KALW. The Ownership Report that
16 counsel has discussed with you consists of three pages and
17 could you tell us how those three pages came to be a part of
18 this April 5 letter?

19 A No, I can't, I don't know how it came to be part
20 of this letter, no.

21 Q Did you personally go through the KALW Public
22 Inspection File to come up with the three pages that now
23 appear as this 1993 Ownership Report?

24 A I can't recall if I did.

25 Q If you did not, did you direct somebody to do it?

1 A I don't recall directing anybody to.

2 Q Did you look at the contents of this 1993
3 Ownership Report prior to the time it was sent for inclusion
4 as part of this April 5, 2001 letter?

5 A I believe I did see this before, yes.

6 Q Did you take note of the fact that the document
7 itself appears to have been signed on July 30, 1997?

8 A I saw that.

9 Q Do you recall seeing it in April of 2001?

10 A Yes. I think I did, again --

11 Q Do you have any recollection whatsoever of a 1993
12 Ownership Report having been prepared on or about January
13 31, 1993, which I believe is the date that appears on the
14 first page there as the point in time when the information
15 that it's supposed to cover?

16 A I don't specifically recall the 1993 Ownership
17 Report.

18 Q Now, you had mentioned that when you were looking
19 through the station Public File in February, March 2001, and
20 you had determined that there were certain documents that
21 weren't there, that were supposed to be there, was one such
22 document the 1993 Supplemental Ownership Report?

23 A I don't recall if this was one or not. Give that
24 it's signed by Mr. Rojas, in 1997 I would assume that it was
25 there, since he was long gone by 2001.

1 Q Now, in terms of the signature that appears,
2 certainly there's a signature that appears to be Baldomar
3 Rojas, or that's the name that appears there but, then
4 there's a parenthesis and it looks like they're the initials
5 of someone after that signature. And counsel for SFUSD has
6 pointed out to you that that was the case.

7 A Yeah.

8 Q And what we haven't been able to determine yet is
9 what that really means. Do you have any knowledge as to
10 whether Mr. Rojas himself actually signed this report or
11 whether somebody signed his name and then indicated in the
12 parenthesis, you know, who it was that had done this act?

13 A I have no recollection whether Mr. Rojas signed it
14 personally or it was signed by somebody who then initialed,
15 put their initials next to his name to indicate whatever
16 that's supposed to indicated, on July whatever 1997.

17 Q Would agree with me that because this document,
18 the 1993 report, reflects that it wasn't signed until July
19 of 1997, that the 1993 Ownership Report was not,
20 Supplemental Ownership Report was not in the Public File
21 when it was supposed to have been?

22 A I would assume that when they looked for it in
23 1997 they couldn't find it.

24 Q And do you have any knowledge as to how a document
25 came to be prepared in 1997, that would have been in

1 connection with the 1993 Ownership Report?

2 A I didn't take any action to file that report, to
3 put together that report.

4 Q Do you have any knowledge as to who did?

5 A No, I don't.

6 THE WITNESS: Can I just ask you a question?

7 MR. SHOOK: If we can be helpful we'll try to be
8 helpful?

9 THE WITNESS: I was just wondering, on this one
10 here --

11 MS. REPP: Yes.

12 THE WITNESS: The initials, what it looks like to
13 you as far as the initials after the name Rojas?

14 MS. REPP: It looks here like an LD or an SD, it's
15 hard to tell.

16 THE WITNESS: Okay. I would, there was an
17 Assistant Superintendent of Schools, Linda Davis, who was an
18 Assistant Superintendent at that time.

19 MR. SHOOK: That's very helpful.

20 THE WITNESS: I'm not saying that she did it, I'm
21 just saying there was somebody named LD who was an Assistant
22 Superintendent.

23 MR. SHOOK: That's great. We've all been
24 wondering. I think it's a step in the right direction.

25 //

1 BY MR. SHOOK:

2 Q I may have asked this and if so, I apologize.

3 Since Mr. Ramirez's departure as Station Manager of KALW FM,
4 have you had any conversations with Mr. Ramirez about the
5 contents of the station's Public File?

6 A None.

7 MR. SHOOK: Now, if we could take a brief look at
8 the 1995 Ownership Report.

9 (Off the record at 12:27 p.m.)

10 (On the record at 12:29 p.m.)

11 MR. SHOOK: Back on the record.

12 BY MR. SHOOK:

13 Q Okay. Counsel for SFUSD has gone over with you
14 now the attachment that is identified as the 1995
15 Supplemental Ownership Report for KALW FM. And first off,
16 do you know how the four pages that appear as the 1995
17 Supplemental Ownership Report came to be a part of the April
18 5 letter that was sent to the FCC?

19 A I don't know that.

20 Q Did you have any, do you have any recollection of
21 gathering the four pages that appear as the Supplemental
22 Ownership Report and sending it to anyone?

23 A I don't have any recollection of doing that.

24 Q Do you have any knowledge as to who may have
25 gathered the four pages and sent them off so that they could

1 be included as part of this April 5 letter?

2 A I couldn't definitively say, no.

3 Q Now, given that the document itself appears to
4 bear a signature of December 10, 1997, would that have any
5 impact whatsoever, in your estimation, on the 'yes' answer
6 that was provided to the Federal Communications Commission
7 in response to the directive on August 1, 1997 when the
8 subject license renewal application was filed, did the KALW
9 Public Inspection File contain all of the Ownership Report
10 and supplemental reports required to be kept by then Section
11 73.3527?

12 A My understanding would be that it was there but
13 when they looked -- and that's what Jeff Ramirez signed,
14 when he signed on August 1st, and when he went back in to
15 look for it, he couldn't find it, after the license
16 challenge. And so it was --

17 Q So, a supplemental report came to be prepared --

18 A -- that he believed was there.

19 Q I see. Would you agree with me that in order for
20 the 'yes' answer to have been completely accurate, that on
21 August 1, 1997 there should have been, in the Public
22 Inspection File a 1995 Ownership Report that bore a date
23 somewhere in 1995?

24 A Yes.

25 Q Do you have any knowledge, one way or the other,

1 as to whether such a report was ever prepared in 1995?

2 A Not to my memory.

3 Q Do you recall there being any discussion on or
4 around April 5, 2001, as to why there was no 1995 Ownership
5 Report that bore a date in 1995?

6 A What we, when we couldn't find something that we
7 had assumed was there, we basically were kicking -- there
8 was basically a, you know, the fact that this file had been
9 in an open drawer in an open office came, that was what we
10 talked about, that I recall having that conversation.

11 Q You had that conversation with Nicole?

12 A Yes.

13 Q And was anybody else involved in that conversation
14 besides yourself and Nicole?

15 A No. I think out of that conversation, you know,
16 the Public File was moved into her office.

17 Q In order to minimize the possibility of documents
18 simply wandering away?

19 A Correct.

20 Q Do you have any recollection whatsoever of being
21 involved in the preparation of a 1995 Ownership Report in
22 December of 1997?

23 A I don't recall putting that together in 1997.

24 Q Do you recall any conversations that took place in
25 December of 1997 regarding the absence of a 1995 Ownership

1 challenge that had been made in November of 1997?

2 A I don't have any recollection of anyone else.

3 Q And given what you've told us in terms of who had
4 responsibility for maintaining the Public File, that is the
5 General Manager, that it certainly would have made sense for
6 Mr. Ramirez to be the one to have looked in the Public File
7 at that time to determine the accuracy of the charges that
8 had been made by Golden Gate Public Radio?

9 A I would say so, yes.

10 MR. SHOOK: Okay. We can move on to question two.

11 (Off the record at 12:37 p.m.)

12 (On the record at 12:29 p.m.)

13 MR. SHOOK: On the record.

14 BY MR. SHOOK:

15 Q Okay. Mr. Helgeson, counsel for SFUSD has just
16 read to you at least the first portion of the response with
17 respect to directive two, which was to the effect or which
18 reads, 'On August 1, 1997 did the KALW FM Public Inspection
19 File contain all of the Issues/Program Lists required by
20 then Section 73.3527?' And the response that SFUSD starts,
21 'Yes' and then it goes on from there, and we'll talk about
22 that.

23 A Okay.

24 Q But, in terms of the 'yes' response, were you the
25 person who determined that the response should be yes?

1 A No, I wasn't.

2 Q Do you know who was?

3 A I can only assume that it was Jeff Ramirez.

4 Q Well, okay, let me try to clarify what I'm asking
5 about here. We're talking now about the April 5, 2001
6 letter that is going to the Federal Communications
7 Commission, and the Commission has asked a question,
8 Commission staff has asked a question, or a direct, made a
9 directive that reads, 'On August 1, 1997 did the KALW FM
10 Public Inspection File contain all of the Issues/Program
11 Lists required by then Section 73.3527?' And the response
12 that SFUSD gives to this directive is, 'Yes', and then it
13 goes on from there. Now, in terms of the 'yes' response
14 that is made in April of 2001, are you the person who is
15 responding yes?

16 A In April of 2001, I would not have been the
17 person, Nicole Sawaya would have been the General Manager at
18 that point.

19 Q Just for your information, and I think counsel for
20 SFUSD would verify this, there is no declaration from Nicole
21 Sawaya as a part of this April 5, 2001 letter.

22 A Okay.

23 Q The declaration that says that the factual
24 information in this letter is true and correct is from you.

25 A Okay.

1 Q So, with that in mind, are you the person
2 answering yes?

3 A Yes.

4 Q And do you believe that response to be accurate?

5 A I believe the response to be accurate.

6 Q Even though you have also told us that when you
7 looked through the Public File, in preparation for preparing
8 a response to the FCC's letter, that you found that there
9 were documents that were missing, you found that there were
10 documents that should have been there but weren't. I mean
11 did I mis-hear what you told me before?

12 A Do I -- yeah, I want to -- what is the 'yes' that
13 I'm saying 'yes' to? Yes I agree that what Jeff Ramirez
14 said in August 1997 --

15 Q Okay. I'll go over it again, I'll go over it
16 again, okay.

17 A Yeah.

18 Q It's just a yes/no question.

19 A Right.

20 Q When you go back in time to August 1, 1997, did
21 the Public Inspection File contain the Issues/Programs Lists
22 that were required?

23 A The document that we filed, the district filed --

24 Q Listen to my question.

25 A Okay.

1 Q On August 1, 1997, did the file, did the Public
2 Inspection File contain the Issues/Programs Lists that were
3 required?

4 A I don't -- I didn't have knowledge of that on
5 August 1st 1997.

6 Q Okay. So, let's just say hypothetically that the
7 directive gives you an opportunity to really answer one of
8 three ways?

9 A Okay.

10 Q The first is yes, the second is no, and the third
11 is I don't know?

12 A The answer is I don't know.

13 Q So, on April 5, 2001, the response that should
14 have come from SFUSD is I don't know or we don't know?

15 A Personally I didn't know. I saw what Jeff had --
16 I was backing up what Jeff had signed, based on what Jeff
17 had said on August 1st, his declaration.

18 Q And by that you mean the box that he checked for
19 the application?

20 A Yes, if he said it was there, I'm taking Jeff's
21 word for it.

22 Q I see.

23 A I based my 'yes' on his 'yes'.

24 Q Okay. Not on a personal review that could verify,
25 to your satisfaction, that the documents that were supposed

1 to be there were in fact there?

2 A True.

3 Q I mean when you looked, you determined that
4 documents were missing?

5 A When I looked.

6 Q Just before the response to this letter was
7 prepared?

8 A If I saw something missing then we took care of
9 that. But as of August 1st, anything that we said by August
10 1st, my 'yes' is based on Jeff's 'yes'.

11 Q I see.

12 A Not on a personal review of the file on August 1,
13 1997.

14 Q And in order to confirm this 'yes' answer that was
15 made to the Commission in April 2001, did you talk to Jeff
16 Ramirez as to whether or not the Public Inspection File did
17 in fact include all of the required documents in August of
18 1997?

19 A No, I didn't.

20 Q Do you know of anyone who did?

21 A No, I don't.

22 Q Now, the very -- as we read through the response
23 following the 'yes', the last sentence of the first
24 paragraph of that response reads, 'Furthermore, according to
25 information in the files of KALW's counsel, KALW's station

ATTACHMENT 4

1 Q Yes. Was there anybody else who was placing lists
2 and other material regarding both categories of programs in
3 the KALW Public File?

4 A In April of 2001, no. I was turning, effectively
5 management was being turned over from me to Nicole Sawaya in
6 March 2001, April, that was the transition time.

7 Q Then the next sentence that appears at the top of
8 page seven reads, 'While present management of KALW did not
9 find discrete specifically prepared program lists for every
10 quarter during the period in question, in the format that
11 fits precisely with the language used in then Section
12 73.3527(a)(7), the file, nevertheless, contains and did
13 contain on August 1, 2001", which I presume was supposed to
14 be August 1, 1997, since it's April 2001, so as clairvoyant
15 as we may be --

16 A Yes.

17 Q -- we don't necessarily know what's going to be
18 ahead.

19 A Yeah.

20 Q '-- the documentation required by the rule and by
21 form 303's certification.' Now, considering that I had a
22 humorous aside in there, I'd better read that sentence
23 again. 'Thus, while present management of KALW did not find
24 discrete specifically prepared program lists for every
25 quarter during the period in question, in a format that fits

1 precisely with the language used in then Section
2 73.3527(a)(7), the file nevertheless contains, and did
3 contain on August 1, the documentation required by the rule
4 and by form 303 certification.' Are you the person who is
5 making the claim that first of all the present management
6 did not find discrete specifically prepared program lists
7 for every quarter in the period in question, which would
8 refer to the license term that ended in December of 1997?

9 A We are referring to, we are referring to Jeff
10 Ramirez's statement that he made in 1997.

11 Q And that is all you're referring to?

12 A Yes. And as far as, where it says lacks discrete
13 quarterly, yes.

14 Q And the assertion that the file nevertheless
15 contains and did contain the documentation required by the
16 rule and the certification, is based on Mr. Ramirez's
17 certification in 1997?

18 A Correct.

19 Q And it's not based on a personal review that you
20 made of the file on or about that period?

21 A No. It's based on what Jeff said in 1997, we went
22 on as true.

23 Q The next paragraph, the first sentence reads, 'For
24 each quarter of the period in question, the file contains,
25 at a minimum, a copy of KALW's Quarterly Program Guide.'